

AMENDED IN SENATE APRIL 30, 2001

SENATE BILL

No. 134

Introduced by Senator Figueroa

(Coauthors: Senators Johannessen and Polanco)

(Coauthors: Assembly Members Aanestad, Correa, and Thomson)

January 29, 2001

An act to amend Sections ~~1601, 1616.5, and 1742 of and 1749 of, and to add Sections 1601.1, 1601.3, 1616.6, 1638.7, and 1648.50 to, the Business and Professions Code, relating to dental professionals, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 134, as amended, Figueroa. Dental professionals.

(1) Existing law provides for the licensing and regulation of dental professionals and dental auxiliaries by the Dental Board of California and the Committee on Dental Auxiliaries. The provisions creating the board, authorizing the board to appoint an executive officer, and creating the committee will become inoperative on July 1, 2002, and will be repealed on January 1, 2003.

This bill would ~~delete these dates, thereby extending the operation of these provisions until an unspecified date~~ revise the composition of the board and provide for the appointment of an executive officer. Pursuant to the bill these provisions would be operative from July 1, 2002, to July 1, 2005, and they would be repealed on January 1, 2006. The bill would extend the provisions creating the Committee on Dental Auxiliaries to July 1, 2005, and repeal them on January 1, 2006. The bill would also provide that the Director of Consumer Affairs appoint a Dental Board Enforcement Program Monitor by a specified date, whose duties would include the monitoring and evaluation of the dental disciplinary system.

The bill would require the monitor to report his or her findings to the department and to the Legislature, and would provide that the monitor be out of the State Dentistry Fund.

Because this bill would use money from a continuously appropriated fund for a new purpose, it would make an appropriation.

(2) Existing law provides a licensing scheme for dentists and requires dentists to meet certain requirements in their practice. Existing law sets forth provisions for permits for oral and maxillofacial surgery.

This bill would require that the board inform all oral maxillofacial licensees of any existing statutory limitations on the services permitted under the authority of a dental license. The bill would also require that, prior to the performance of certain dental restorations, a patient be provided with specified materials discussing possible health risks, and that these materials be made available in a dentist's office.

(3) Existing law requires the Committee on Dental Auxiliaries to meet at least 4 times annually, at least once in Sacramento and at least once in Los Angeles.

This bill would delete the requirements that the committee meet in Sacramento and Los Angeles.

Vote: ~~majority~~ ²/₃. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1.—Section 1601 of the Business and Professions~~
- 2 ~~Code is amended to read:~~
- 3 ~~1601.—(a) There is in the Department of Consumer Affairs the~~
- 4 ~~Dental Board of California in which the administration of this~~
- 5 ~~chapter is vested. The board consists of eight practicing dentists,~~
- 6 ~~one registered dental hygienist, one registered dental assistant, and~~
- 7 ~~four public members. The board shall be organized into standing~~
- 8 ~~committees dealing with examinations, enforcement, and other~~
- 9 ~~subjects as the board deems appropriate.~~
- 10 ~~This section shall become inoperative on July 1, _____, and, as~~
- 11 ~~of January 1, _____, is repealed, unless a later enacted statute,~~
- 12 ~~which becomes effective on or before January 1, _____, deletes or~~
- 13 ~~extends the dates on which it becomes inoperative and is repealed.~~
- 14 ~~The repeal of this section renders the board subject to the review~~
- 15 ~~required by Division 1.2 (commencing with Section 473).~~

~~(b) For purposes of this chapter, any reference in this chapter to the Board of Dental Examiners shall be deemed to refer to the Dental Board of California.~~

~~SEC. 2. Section 1616.5 of the Business and Professions Code is amended to read:~~

~~1616.5. The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.~~

~~This section shall become inoperative on July 1, _____, and, as of January 1, _____, is repealed, unless a later enacted statute, which becomes effective on or before January 1, _____, deletes or extends the dates on which it becomes inoperative and is repealed.~~

~~SEC. 3.~~

SECTION 1. Section 1601.1 is added to the Business and Professions Code, to read:

1601.1. (a) There shall be in the Department of Consumer Affairs the Dental Board of California in which the administration of this chapter is vested. The board shall consist of eight practicing dentists, one registered dental hygienist, one registered dental assistant, and four public members. The board shall be organized into standing committees dealing with examinations, enforcement, and other subjects as the board deems appropriate.

(b) For purposes of this chapter, any reference in this chapter to the Board of Dental Examiners shall be deemed to refer to the Dental Board of California.

(c) The board shall have all authority previously vested by the existing board with respect to conducting investigations, inquiries, and disciplinary actions or proceedings. The board may enforce all disciplinary actions undertaken by the previous board.

(d) This section shall become operative on July 1, 2002, and, shall become inoperative on July 1, 2005, and repealed on January 1, 2006, unless a later enacted statute, which becomes effective on or before January 1, 2006, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 2. Section 1601.3 is added to the Business and Professions Code, to read:

1 1601.3. (a) *The Director of Consumer Affairs shall appoint*
2 *a Dental Board Enforcement Program Monitor no later than*
3 *January 31, 2002, whose duties shall include, but are not be*
4 *limited to, the monitoring and evaluation of the dental disciplinary*
5 *system. The director shall specify the duties and tenure of the*
6 *monitor. The monitor shall report his or her findings, as specified,*
7 *to the department and to the Legislature.*

8 (b) *The Dental Board Enforcement Program Monitor shall be*
9 *paid out of the State Dentistry Fund pursuant to Section 1721.*

10 SEC. 3. *Section 1616.6 is added to the Business and*
11 *Professions Code, to read:*

12 1616.6. *The board may appoint a person exempt from civil*
13 *service who shall be designated as an executive officer and who*
14 *shall exercise the powers and perform the duties delegated by the*
15 *board and vested in him or her by this chapter.*

16 *This section shall become operative on July 1, 2002, and, shall*
17 *become inoperative on July 1, 2005, and repealed on January 1,*
18 *2006, unless a later enacted statute, which becomes effective on or*
19 *before January 1, 2006, deletes or extends the dates on which it*
20 *becomes inoperative and is repealed.*

21 SEC. 4. *Section 1638.7 is added to the Business and*
22 *Professions Code, to read:*

23 1638.7. *The board shall inform all oral and maxillofacial*
24 *licensees of existing statutory limitations on the services permitted*
25 *under the authority of a dentist license, and shall advise the*
26 *licensees that violations of those limitations, including, but not*
27 *limited to, advertising certain cosmetic surgery services not*
28 *authorized by a dentist license, shall be actively investigated and*
29 *disciplined.*

30 SEC. 5. *Section 1648.50 is added to the Business and*
31 *Professions Code, to read:*

32 1648.50. *Prior to the performance of a dental restoration that*
33 *could involve the use of dental amalgam, a dentist shall provide the*
34 *patient with the fact sheet set forth in Section 1648.10, discussing*
35 *the possible health risks related to mercury. A dentist shall make*
36 *the fact sheet available in his or her office in a location visible to*
37 *patients.*

38 SEC. 6. *Section 1742 of the Business and Professions Code is*
39 *amended to read:*

1 1742. (a) There is within the jurisdiction of the board a
2 Committee on Dental Auxiliaries.

3 (b) The Committee on Dental Auxiliaries shall have the
4 following areas of responsibility and duties:

5 (1) The committee shall have the following duties and
6 authority related to education programs and curriculum:

7 (A) Shall evaluate all dental auxiliary programs applying for
8 board approval, in accordance with board rules governing the
9 programs.

10 (B) May appoint board members to any evaluation committee.
11 Board members so appointed shall not make a final decision on the
12 issue of program or course approval.

13 (C) Shall report and make recommendations to the board as to
14 whether a program or course qualifies for approval. The board
15 retains the final authority to grant or deny approval to a program
16 or course.

17 (D) Shall review and document any alleged deficiencies that
18 might warrant board action to withdraw or revoke approval of a
19 program or course, at the request of the board.

20 (E) May review and document any alleged deficiencies that
21 might warrant board action to withdraw or revoke approval of a
22 program or course, at its own initiation.

23 (2) The committee shall have the following duties and
24 authority related to applications:

25 (A) Shall review and evaluate all applications for licensure in
26 the various dental auxiliary categories to ascertain whether a
27 candidate meets the appropriate licensing requirements specified
28 by statute and board regulations.

29 (B) Shall maintain application records, cashier application
30 fees, and perform any other ministerial tasks as are incidental to
31 the application process.

32 (C) May delegate any or all of the functions in this paragraph
33 to its staff.

34 (D) Shall issue auxiliary licenses in all cases, except where
35 there is a question as to a licensing requirement. The board retains
36 final authority to interpret any licensing requirement. If a question
37 arises in the area of interpreting any licensing requirement, it shall
38 be presented by the committee to the board for resolution.

39 (3) The committee shall have the following duties and
40 authority regarding examinations:

1 (A) Shall advise the board as to the type of license examination
2 it deems appropriate for the various dental auxiliary license
3 categories.

4 (B) Shall, at the direction of the board, develop or cause to be
5 developed, administer, or both, examinations in accordance with
6 the board's instructions and periodically report to the board on the
7 progress of those examinations. The following shall apply to the
8 examination procedure:

9 (i) The examination shall be submitted to the board for its
10 approval prior to its initial administration.

11 (ii) Once an examination has been approved by the board, no
12 further approval is required unless a major modification is made
13 to the examination.

14 (iii) The committee shall report to the board on the results of
15 each examination and shall, where appropriate, recommend pass
16 points.

17 (iv) The board shall set pass points for all dental auxiliary
18 licensing examinations.

19 (C) May appoint board members to any examination
20 committee established pursuant to subparagraph (B).

21 (4) The committee shall periodically report and make
22 recommendations to the board concerning the level of fees for
23 dental auxiliaries and the need for any legislative fee increase.
24 However, the board retains final authority to set all fees.

25 (5) The committee shall be responsible for all aspects of the
26 license renewal process, which shall be accomplished in
27 accordance with this chapter and board regulations. The
28 committee may delegate any or all of its functions under this
29 paragraph to its staff.

30 (6) The committee shall have no authority with respect to the
31 approval of continuing education providers; the board retains all
32 of this authority.

33 (7) The committee shall advise the board as to appropriate
34 standards of conduct for auxiliaries, the proper ordering of
35 enforcement priorities, and any other enforcement-related matters
36 that the board may, in the future, delegate to the committee. The
37 board retains all authority with respect to the enforcement actions,
38 including, but not limited to, complaint resolution, investigation,
39 and disciplinary action against auxiliaries.

(8) The committee shall have the following duties regarding regulations:

(A) Shall review and evaluate all suggestions or requests for regulatory changes related to dental auxiliaries.

(B) Shall report and make recommendations to the board, after consultation with departmental legal counsel and the board's executive officer.

(C) Shall include in any report regarding a proposed regulatory change, at a minimum, the specific language of the proposed changes and the reasons for and facts supporting the need for the change. The board has the final rulemaking authority.

(c) This section shall become inoperative on July 1, ~~2005~~, and, as of January 1, ~~2006~~, is repealed, unless a later enacted statute which becomes effective on or before January 1, ~~2006~~, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the committee subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 7. Section 1749 of the Business and Professions Code is amended to read:

1749. (a) The committee shall meet at least four times annually, ~~at least once in the City of Sacramento, and at least once in the City of Los Angeles.~~ The committee shall conduct such additional meetings as are necessary in appropriate locations to conclude its business. Special meetings may be held at such time and place as the committee may designate.

(b) Notice of each meeting of the committee shall be given at least two weeks in advance to those persons and organizations who express an interest in receiving such notification.

(c) The committee shall obtain permission of the director to meet more than six times annually. The director shall approve such meetings that are necessary for the committee to fulfill its legal responsibilities.